

§ 530.4

(o) *OIRM* means the Commission's Office of Information and Resources Management.

(p) *Non-vessel-operating common carrier* ("NVOCC") means an ocean transportation intermediary as defined by section 3(17)(B) of the Act.

(q) *Service contract* means a written contract, other than a bill of lading or receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the individual ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.

(r) *Shipper* means a cargo owner; the person for whose account the ocean transportation is provided; the person to whom delivery is to be made; a shippers' association; or an NVOCC that accepts responsibility for payment of all applicable charges under the service contract.

(s) *Statement of essential terms* means a concise statement of the essential terms of a service contract required to be published under § 530.12 of this part.

[64 FR 11206, Mar. 8, 1999, as amended at 64 FR 23792, May 4, 1999; 64 FR 41042, July 29, 1999; 65 FR 26513, May 8, 2000]

§ 530.4 Confidentiality.

All service contracts and amendments to service contracts filed with the Commission shall, to the full extent permitted by law, be held in confidence. Nothing contained in this part shall preclude the Commission from providing certain information from or access to service contracts to another agency of the Federal government of the United States.

§ 530.5 Duty to file.

(a) The duty under this part to file service contracts, amendments and notices, and to publish statements of essential terms shall be upon the individual carrier party or parties partici-

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pating or eligible to participate in the service contract.

(b) Filing may be accomplished by any duly agreed-upon agent, as the parties to the service contract may designate, and subject to conditions as the parties may agree.

(c) *Registration*—(1) *Application*. Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier in writing by submitting to BTCL the Registration Form (FMC-83) in Exhibit 1 to this part.

(2) *Approved registrations*. OIRM shall provide approved Registrants a log-on ID and password for filing and amending service contracts and so notify Registrants via U.S. mail.

[64 FR 11206, Mar. 8, 1999, as amended at 64 FR 41042, July 29, 1999]

§ 530.6 Certification of shipper status.

(a) *Certification*. The shipper contract party shall sign and certify on the signature page of the service contract its shipper status (e.g., owner of the cargo, shippers' association, NVOCC, or specified other designation), and the status of every affiliate of such contract party or member of a shippers' association entitled to receive service under the contract.

(b) *Proof of tariff and financial responsibility*. If the certification completed by the contract party under paragraph (a) of this section identifies the contract party or an affiliate or member of a shippers' association as an NVOCC, the ocean common carrier, conference or agreement shall obtain proof that such NVOCC has a published tariff and proof of financial responsibility as required under sections 8 and 19 of the Act before signing the service contract. An ocean common carrier, conference or agreement can obtain such proof by the same methods prescribed in § 515.27 of this chapter.

(c) *Joining shippers' association during term of contract*. If an NVOCC joins a shippers' association during the term of a service contract and is thereby entitled to receive service under the contract, the NVOCC shall provide to the ocean common carrier, agreement or conference the proof of compliance required by paragraph (b) of this section